

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

SEP 20 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

800 Data Base Access Tariffs)
and the)

800 Service Management System Tariff)

CC Docket No. 93-129

Direct Case of Atlantic Telephone Membership Corporation, Coastal
Utilities, Inc., Farmers Telephone Cooperative, Inc., Hargray
Telephone Company, Inc., Horry Telephone Cooperative, Inc.,
Millington Telephone Company, Inc., Mt. Horeb Telephone Company,
Pineland Telephone Cooperative, Inc., Southeast Telephone Company
of Wisconsin, Inc. and Warwick Valley Telephone Company

Stephen G. Kraskin
Kraskin & Associates
2120 L Street, N.W., Suite 810
Washington, D.C. 20037
(202) 296-8890

Thomas J. Moorman
General Counsel
Regulatory and Industry Affairs
John Staurulakis, Inc.
6315 Seabrook Road
Seabrook, Maryland 20706
(301) 459-7590

Date: September 20, 1993

No. of Copies rec'd
List A B C D E

D+4

Table of Contents

	Page
Summary	ii
I. Introduction	3
II. Each Independent's 800 Data Base Tariff Clearly Describes the Services It Offers	3
III. The Rate of Return LECs' Role in Providing Services Offered in Their Tariffs	5
IV. The Independents have Properly Developed Their Rates .	8
V. Conclusion	10

Summary

Atlantic Telephone Membership Corporation, Coastal Utilities, Inc., Farmers Telephone Cooperative, Inc., Hargray Telephone Company, Inc., Horry Telephone Cooperative, Inc., Millington Telephone Company, Inc., Mt. Horeb Telephone Company, Pineland Telephone Cooperative, Inc., Southeast Telephone Company of Wisconsin, Inc., and Warwick Valley Telephone Company (the "Independents"), by their attorneys and cost consultant John Staurulakis, Inc., hereby file this consolidated Direct Case in response to the July 19, 1993 Order Designating Issues for Investigation of the Federal Communications Commission (Commission or FCC) in the above-captioned matter.

As demonstrated herein, the Independents' rates, terms and conditions that have been established for the provision of 800 data base service are just and reasonable under the Communications Act, the FCC's policies, and applicable FCC decisions and Rules. The terms and conditions of the Independent tariffs clearly describe the services they offer; each Independent tariff properly demonstrates that each will bill access customers for the services it provides; and the rates set forth in each Independent's tariff utilizes a reasonable surrogate consistent with the Commission's guidance. Accordingly, the Independents request that the FCC terminate this investigation in its entirety with respect to the Independents' 800 data base service tariffs.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
800 Data Base Access Tariffs)	CC Docket No. 93-129
and the)	
800 Service Management System Tariff)	

Direct Case of Atlantic Telephone Membership Corporation, Coastal Utilities, Inc., Farmers Telephone Cooperative, Inc., Hargray Telephone Company, Inc., Horry Telephone Cooperative, Inc., Millington Telephone Company, Inc., Mt. Horeb Telephone Company, Pineland Telephone Cooperative, Inc., Southeast Telephone Company of Wisconsin, Inc. and Warwick Valley Telephone Company

Atlantic Telephone Membership Corporation, Coastal Utilities, Inc., Farmers Telephone Cooperative, Inc., Hargray Telephone Company, Inc., Horry Telephone Cooperative, Inc., Millington Telephone Company, Inc., Mt. Horeb Telephone Company, Pineland Telephone Cooperative, Inc., Southeast Telephone Company of Wisconsin, Inc., and Warwick Valley Telephone Company (the "Independents"), by their attorneys and cost consultant John Staurulakis, Inc.,¹ hereby file this consolidated Direct Case in response² to the July 19, 1993 Order Designating Issues for Investigation of the Federal Communications Commission (FCC) in the

¹ John Staurulakis, Inc. (JSI) is a cost consulting firm specializing in cost separations services for independent telephone companies. JSI assists its client-companies in the preparation and filing of federal access tariffs. Each of the Independents utilized these services with regard to their respective 800 data base tariff filing at issue.

² The issues designated in this proceeding by the FCC are applicable to each Independent. Therefore, in order to achieve administrative efficiencies and to avoid otherwise unnecessary pleadings, the Independents have filed this consolidated Direct Case. To the extent factually specific references are made, the affected Independents are clearly identified herein.

above-captioned matter.³ For the reasons demonstrated herein, the Independents request that the FCC terminate its investigation with respect to each of the Independent's 800 data base service tariffs,⁴ and that the FCC find that each of the Independent's 800 data base service rates, terms, and conditions are just and reasonable in accordance with the Communications Act of 1934, as amended (Communications Act) and the applicable FCC decisions and

³ See In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, Order Designating Issues for Investigation, CC Docket No. 93-129, DA 93-930, released July 19, 1993 (Designation Order). The dates for the various filings in this proceeding were extended on August 5, 1993. See In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, Order, CC Docket No. 93-129, DA 93-876, released August 5, 1993.

⁴ See Coastal Utilities, Inc., Transmittal No. 10, Tariff F.C.C. No. 1, filed May 10, 1993; Farmers Telephone Cooperative, Inc., Transmittal No. 7, Tariff F.C.C. No. 1, filed May 10, 1993; Hargray Telephone Company, Inc., Transmittal No. 12, Tariff F.C.C. No. 1, filed May 10, 1993; Millington Telephone Company, Inc., Transmittal No. 8, Tariff F.C.C. No. 1, filed May 10, 1993; Mt. Horeb Telephone Company, Transmittal No. 9, Tariff F.C.C. No. 1, filed May 10, 1993; Pineland Telephone Cooperative, Inc., Transmittal No. 19, Tariff F.C.C. No. 2, filed May 10, 1993; Southeast Telephone Company of Wisconsin, Inc., Transmittal No. 11, Tariff F.C.C. No. 2, filed May 10, 1993; Warwick Valley Telephone Company, Transmittal No. 20, Tariff F.C.C. No. 1. Atlantic Telephone Membership Corporation (Atlantic) and Horry Telephone Cooperative, Inc. (Horry) did not file individual Traffic Sensitive Tariffs, including 800 data base service provisions, until April 2, 1993. These tariffs were not effective until July 1, 1993, when these companies withdrew from the National Exchange Carrier Association, Inc. Traffic Sensitive Tariff. See Atlantic Telephone Membership Corporation, Transmittal No. 1, Tariff F.C.C. No. 1, filed April 2, 1993; Horry Telephone Cooperative, Inc., Transmittal No. 1, Tariff F.C.C. No. 1, filed April 2, 1993. Although these companies, consequently, did not make tariff filings on March 5, 1993, they have joined in this Direct Case in order to respond to the generic concerns expressed by the Commission.

Rules and Regulations.⁵ In support thereof, the following is shown:

I. Introduction

In the Designation Order, the FCC has requested comments on certain issues regarding the filing of both 800 data base-related tariffs and 800 Service Management System tariffs. None of the Independents currently provides 800 Service Management System-related services or Responsible Organization-related services.⁶ Accordingly, this Direct Case is limited to the issues concerning the 800 data base query tariffs.⁷

II. Each Independent's 800 Data Base Tariff Clearly Describes the Services It Offers

The FCC has requested comments on the clarity with which the Local Exchange Carrier (LEC) 800 data base tariffs describe the services offered and, specifically, "on whether terms and

⁵ As used herein, the term "800 data base service" refers to the service elements -- query charges and vertical features -- that the Independents have filed in their respective tariffs.

⁶ See Designation Order at para. 7.

⁷ Of the Independents, only Coastal Utilities, Inc. (Coastal), Farmers Telephone Cooperative, Inc. (Farmers), Hargray Telephone Company, Inc. (Hargray), and Horry have deployed Service Switching Points (SSPs) and physically provide facilities associated with 800 data base service. The remaining Independents filed 800 data base service tariff revisions in order to assure compliance with the FCC's directives. In addition, Warwick Valley Telephone Company (Warwick Valley), subsequent to its related 800 data base service filings, has filed as an Issuing Carrier in the John Staurulakis, Inc. Tariff F.C.C. No. 1. Warwick Valley's 800 data base service rates, terms, and conditions that are the subject of this investigation, originally filed in Warwick Valley's Tariff F.C.C. No. 1, were mirrored in the John Staurulakis, Inc. Tariff F.C.C. No. 1 filing. This filing became effective on September 1, 1993. Effective that date, the Warwick Valley Tariff F.C.C. No. 1 was cancelled.

conditions ... which appear in the 800 data base tariffs, are consistent with the Communications Act and with the Commission's Orders in CC Docket No. 86-10."⁸

Each of the Independents filed their respective 800 data base service tariffs pursuant to Section 61.39 of the FCC's Rules⁹ and in a manner consistent with the FCC's policies adopted in the Small Company Order.¹⁰ Pursuant to these Rules and policies, each of the Independents concurs in the terms and conditions of the National Exchange Carrier Association, Inc. (NECA) Tariff F.C.C. No. 5 for their respective traffic sensitive offerings, including 800 data base service.

The Independents submit that it is appropriate for NECA, in its capacity as the drafter of the tariff terms and conditions under consideration, to address this issue. The Independents, however, respectfully submit that NECA, consistent with its practices, has developed tariff terms and conditions which accurately describe the services offered by its issuing and concurring carriers in a manner that is consistent with the Commission's applicable Orders, Rules and Regulations.

No specific reference has been made to any of the Independents in regard to this issue in the Designation Order. In the event that any party addresses this matter specifically with regard to

⁸ Designation Order at para. 6.

⁹ See 47 C.F.R. Section 61.39.

¹⁰ See generally In the Matter of Regulation of Small Telephone Companies, Report and Order, CC Docket No. 86-467, 2 FCC Rcd 3811 (1987) (Small Company Order).

any Independent, the respective Independent will respond accordingly. In the absence of any basis for determining that the 800 data base tariff terms and conditions set forth in the NECA tariff are deficient in any way, the Commission should terminate its investigation of the Independents' tariffs with respect to this issue.

**III. The Rate of Return LECs' Role in
Providing Services Offered in Their Tariffs**

The FCC has requested comments on the various "interconnection architectures" that have been included in the 800 data base tariffs of the LECs.¹¹ The FCC seeks specific comments regarding "whether the originating LEC may properly establish tariffed charges for the query service when the neighboring LEC who provides the service also has charges for the service in its tariff."¹²

The Commission's inquiry in this regard is not one of first impression. While the technology and resulting service applications associated with 800 data base service are relatively new, the concept of LECs utilizing various network interconnection architectures to provide access services is not new. Achieving the objectives of network and economic efficiencies often results in interconnection of more than one entity in the provision of access

¹¹ See Designation Order at para. 34.

¹² Id. For purposes of this discussion, the "originating LEC" is the LEC within whose service territory the 800 call is made; the "neighboring LEC" is the LEC that actually launches the data base query, the service that is the subject of this investigation.

service, a network architecture clearly applicable to the provision of 800 data base service access.¹³

For example, access services to the end office of one LEC are often provided over the facilities of both the end office LEC and a connecting LEC. The Commission has established meet point billing requirements to ensure that the access customer is properly billed under such circumstances. The concept implemented by these established access service billing requirements are equally applicable to 800 data base services when the neighboring LEC provides 800 data base access service in conjunction with an originating LEC that has also established tariff charges.

In the Designation Order, the Commission has expressed a concern as to whether double billing may result under this service architecture.¹⁴ The utilization of the Commission's established meet point billing principles will alleviate this concern. Similar to the manner in which an access customer can determine from NECA Tariff F.C.C. No. 4 the proper billing for transport facilities it utilizes under a jointly provided LEC access arrangement, customers will be able to determine that they are properly billed for 800 data base access. NECA Tariff F.C.C. No. 4 includes information

¹³ The FCC already has recognized that the smaller LECs should be afforded options in the provision of 800 data base. See In the Matter of Provision of Access for 800 Service, Report and Order, CC Docket No. 86-10, 4 FCC Rcd 2824, 2829, n. 90 (1989).

¹⁴ See Designation Order at para. 34 ("Those carriers may choose instead to route 800 calls to a neighboring LEC equipped with the requisite facilities to query the 800 data base. In some of these cases, the originating LEC has nevertheless filed a tariff for 800 data base query charges.")

indicating to customers which LEC will be billing the 800 data base query -- the originating LEC or a neighboring LEC.

In addition to providing access services on a meet point jointly provided basis, a LEC may elect to utilize the facilities of another carrier or third party in the provision of access service. For example, a LEC may arrange to provide transport access service utilizing the capacity of another entity. Under these circumstances, the LEC incurs an expense to the third party to compensate it for the use of its facility, and the expense is included among the costs considered in the development of the LEC's rates.

This same scenario will occur in the provision of 800 data base access service. In order to obtain network and economic efficiencies, a LEC may elect to deploy its own SSP and interconnect to another entity's Signal Transfer Point (STP) and Service Control Point (SCP). Consistent with existing interconnection architectures, the LEC will incur charges for the utilization of other parties' STPs and SCPs. These charges will, in turn, be included in the development of the LEC's rates for the provision of 800 data base access services.

In accordance with the terms and conditions of the 800 data base tariffs filed by the Independents, no Independent is authorized to bill an 800 data base charge unless it has first updated NECA Tariff F.C.C. No. 4.¹⁵ Among the Independents, only

¹⁵ See NECA Tariff F.C.C. No. 5, Section 5.2.1.E, 1st Revised Page 5-9.1. As set forth above, the Independents concur in the terms and conditions set forth in NECA Tariff F.C.C. No. 5.

Coastal, Farmers, Hargray, and Horry have indicated in NECA Tariff F.C.C. No. 4 that they will provide and, accordingly, bill access customers for 800 data base queries.

Therefore, there is no possibility of customer confusion with respect to the role of each of the Independents in the provisioning and billing of 800 data base query service. Accordingly, the Commission should terminate its investigation of the Independents' tariffs with respect to this issue.

IV. The Independents have Properly Developed Their Rates

The final set of issues raised by the FCC concerns the 800 data base query service rates and their development. Each of the Independents developed its rates pursuant to the Section 61.39 Rules which require filings to be based on historical cost and demand, unless the rate is for a new service.

The FCC established in the Small Company Order that rates for new service filings will "be considered prima facie lawful for the initial rate period," and that "[t]hese rates are likely to be of minor effect during that period and more burdensome rules could delay the introduction of the service."¹⁶ Moreover, the FCC has recognized that "[f]lexible treatment of such rates is warranted."¹⁷

Further, in the specific context of the initial 800 data base service rates, the FCC also recognized that permitting LECs, such

¹⁶ Small Company Order, supra n. 10, at para. 27 (footnote omitted).

¹⁷ Id.

as the Independents, "to use an average or surrogate method or rule that relied on the NECA data would probably be economically more efficient than requiring detailed studies and would still produce reasonable results."¹⁸

In accordance with the above-cited rulings, and in lieu of potentially expensive and time consuming cost studies, the Independents used a reasonable surrogate method to establish their proposed tariff rates -- they have filed rates mirroring those established by NECA. The Independents submit that there is no basis for finding the rates filed by the Independents anything but reasonable.¹⁹ Each filing was consistent with the Orders of the FCC addressing the establishment of 800 data base service, as well as the policies enunciated in the Small Company Order and embodied in Section 61.39 of the FCC's Rules.

Moreover, a determination that the rates filed by the Independents should be adjusted would conflict with the FCC's prior ruling that new service rates will be "adjusted automatically" when historical costs and demand are available.²⁰ Further, the Commission has recognized the validity of these policies and their application in the context of denying challenges to the 1993 annual

¹⁸ In the Matter of Provision of Access for 800 Service, Second Report and Order, CC Docket No. 86-10, FCC 93-53, released January 29, 1993 at para. 37 (emphasis added).

¹⁹ In accordance with these policies and rules, the Independents make clear their individual intent to refile their respective 800 data base service rates to mirror those filed by NECA should NECA be required to revise its rates due to this proceeding.

²⁰ See Small Company Order at para. 27.

access charge filings of Section 61.39 LECs.²¹ Accordingly, the Independents submit that their individual rates are just and reasonable, and that the Commission should terminate its investigation of the Independents' tariffs with respect to this issue.²²

V. Conclusion

The Independents' rates, terms and conditions that have been established for the provision of 800 data base service are just and reasonable under the Communications Act, the FCC's policies, and applicable FCC decisions and Rules. The terms and conditions of the Independent tariffs clearly describe the services they offer; each Independent tariff properly demonstrates that each will bill

²¹ See In the Matter of 1993 Annual Access Tariff Filings, et al., Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, CC Docket Nos. 93-193, 93-123, and 93-129, DA 93-762, released June 23, 1993 at paras. 72-74.


²² The Independents submit that the FCC's request for data, as described in Appendix B of the Designation Order, is inapplicable to carriers filing pursuant to Section 61.39 of the Commission's Rules. To the extent the Independents have revised their 800 data base rates subsequent to the initial filing, they have done so only to maintain consistency with the Commission's guidance regarding the utilization of a reasonable surrogate and their decision, therefore, to mirror NECA rates. Accordingly, the Independents have not utilized or developed data that the Commission has sought in Appendix B. In the event that the Commission's investigation of the NECA rates results in an adjustment to those rates, the Independents will refile their 800 data base service rates to maintain their mirroring of those filed by NECA, consistent with the Commission's directives to utilize reasonable surrogates. Finally, neither Atlantic nor Horry have revised their 800 data base query rates from those proposed in their respective April 2, 1993 filings. Accordingly, the directives contained in Appendix B are not applicable to Atlantic and Horry not only for the reasons stated above, but also because Appendix B addresses only companies that revised their initial 800 data base service rates.


access customers for the services it provides; and the rates set forth in each Independent's tariff utilizes a reasonable surrogate consistent with the Commission's guidance. Accordingly, the Independents request that the FCC terminate this investigation in its entirety with respect to the Independents' 800 data base service tariffs.

Respectfully submitted,

Atlantic Telephone Membership Corporation
Coastal Utilities, Inc.
Farmers Telephone Cooperative, Inc.
Hargray Telephone Company, Inc.
Horry Telephone Cooperative, Inc.
Millington Telephone Company, Inc.
Mt. Horeb Telephone Company
Pineland Telephone Cooperative, Inc.
Southeast Telephone Company
of Wisconsin, Inc.
Warwick Valley Telephone Company

By:


Stephen G. Kraskin
Kraskin & Associates
2120 L Street, N.W., Suite 810
Washington, D.C. 20037
(202) 296-8890


Thomas J. Moorman
General Counsel
Regulatory and Industry Affairs
John Staurulakis, Inc.
6315 Seabrook Road
Seabrook, Maryland 20706
(301) 459-7590

Date: September 20, 1993

Certificate of Service

I, Thomas J. Moorman, do hereby certify that on this 20th day of September, 1993, a copy of the foregoing "Direct Case of Atlantic Telephone Membership Corporation, Coastal Utilities, Inc., Farmers Telephone Cooperative, Inc., Hargray Telephone Company, Inc., Horry Telephone Cooperative, Inc., Millington Telephone Company, Inc., Mt. Horeb Telephone Company, Pineland Telephone Cooperative, Inc., Southeast Telephone Company of Wisconsin, Inc. and Warwick Valley Telephone Company" was hand delivered to the offices listed below.

Tariff Division
Room 518
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

International Transcription Services
Room 246
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554



Thomas J. Moorman